



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2016–N232]; [FF08ESMF00–FXES11120800000–178]

Habitat Conservation Plan for Pacific Gas and Electric Company's San Francisco Bay Area Operations and Maintenance

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of permit application, draft environmental assessment, draft habitat conservation plan, request for comment; withdrawal of notice to prepare an environmental impact statement.

SUMMARY: This notice advises the public that we, the U.S. Fish and Wildlife Service, have prepared a draft environmental assessment under the National Environmental Policy Act of 1967, as amended, and its implementing regulations. This notice also announces the receipt of an application for an incidental take permit under the Endangered Species Act of 1973, as amended, and receipt of a draft habitat conservation plan. Also, we announce that we are withdrawing a prior notice to prepare an environmental impact statement.

DATES: *Submitting Comments:* To ensure consideration, written comments must be received by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

ADDRESSES: *Submitting Comments:* Please address written comments to Mike Thomas, Chief, Conservation Planning Division, or Eric Tattersall, Assistant Field Supervisor, by mail/hand-delivery at U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, California 95825; or by facsimile to (916) 414-6713. You may telephone (916) 414-6600 to make an appointment during regular business hours to drop off comments at the Sacramento Fish and Wildlife Office.

Reviewing Documents: You may obtain electronic copies of the draft habitat conservation plan and draft EA by downloading them from the Sacramento Fish and Wildlife Office website at <http://www.fws.gov/sacramento>, or by contacting any of the individuals in **FOR FURTHER INFORMATION CONTACT**. Copies of these documents are also available for public inspection, by appointment, during regular business hours at the Sacramento Fish and Wildlife Office (see **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Josh Emery, San Joaquin Valley Division; Mike Thomas, Chief, Conservation Planning Division; or Eric Tattersall, Assistant Field Supervisor, at the Sacramento Fish and Wildlife Office (see

ADDRESSES) or at (916) 414–6600 (telephone). If you use a telecommunications device for the deaf, please call the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: This notice advises the public that we, the U.S. Fish and Wildlife Service (Service), have prepared a draft environmental assessment (draft EA) under the National Environmental Policy Act of 1967, as amended (42 U.S.C. 4321 *et seq.*; NEPA), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6.

This notice also announces the receipt of an application from Pacific Gas and Electric Company (PG&E) for a 30-year incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*; Act). PG&E prepared the Draft Bay Area Habitat Conservation Plan (Draft Plan, or HCP) pursuant to section 10(a)(1)(B) of the Act. PG&E is requesting the authorization of incidental take for 32 covered species that could result from activities covered under the Draft Plan.

Introduction

The Draft Plan is a comprehensive regional habitat conservation plan for the nine counties surrounding the San Francisco Bay, and is designed to provide long-term conservation and management of sensitive species and the habitats upon which those species depend, while accommodating routine operation and maintenance (O&M) activities and minor construction for PG&E's gas and electrical distribution facilities and implementation of the Draft Plan.

Background Information

Section 9 of the Act (16 U.S.C. 1531–1544 et seq.) and Federal regulations (50 CFR 17) prohibit the taking of fish and wildlife species listed as endangered or threatened under section 4 of the Act. Take of federally listed fish or wildlife is defined under the Act as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct. The term “harass” is defined in the regulations as to carry out actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). The term “harm” is defined in the regulations as significant habitat modification or degradation that results in death or injury of listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). However, under specified circumstances, the Service may issue permits that allow the take of federally listed species, provided that the take that occurs is incidental to, but not the purpose of, an otherwise lawful activity.

Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. Section 10(a)(1)(B) of the Act contains provisions for issuing such incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

- (1) The taking will be incidental;

- (2) The applicants will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
- (3) The applicants will develop a proposed HCP and ensure that adequate funding for the HCP will be provided;
- (4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
- (5) The applicants will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

Proposed Action

The Service would issue an ITP to PG&E for a period of 30 years for certain covered activities (described below) in the 9 counties surrounding the San Francisco Bay. Annual species effects as a result of PG&E's activities are estimated to be approximately 60 acres of permanent habitat loss and 326 acres of temporary habitat disturbance. PG&E has requested a ITP for 32 species (Covered Species), 19 animals and 13 plants, all of which are currently listed as threatened or endangered under the Act.

Plan Area

The geographic scope of the Draft Plan includes Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara, San Mateo, and San Francisco Counties; collectively, this area is known as the study area in the Draft Plan and Draft EA. Within the study area, the Plan Area consists of PG&E's gas and electric transmission and distribution facilities, rights-of-way, buffer lands, areas owned by PG&E and/or subject

to PG&E easements, access routes, and those areas acquired as mitigation to offset the impacts resulting from covered activities. The total plan area is approximately 402,440 acres; of this total acreage, 128,735 acres (32 percent) are in natural land-cover types, 246,777 acres (61 percent) are in urban land-cover types, and 26,928 acres (7 percent) are in agricultural land-cover types.

Covered Activities

The proposed section 10 ITP may allow take of covered wildlife species resulting from covered activities in the proposed HCP plan area. PG&E is requesting incidental take authorization for covered species that could be affected by activities identified in the Draft Plan. The Draft Plan covers all PG&E O&M, minor new construction, and pipeline safety enhancement program activities related to PG&E's natural gas and electric transmission and distribution systems that may result in take of covered species and that are located in the plan area. O&M activities occur throughout PG&E's existing network of facilities and would occur at or near the existing facilities. Minor new construction activities include installing new or replacement structures to upgrade facilities or to extend service to new customers. Minor new construction, when in natural vegetation or agricultural land-cover types that contain suitable habitat for covered species, is limited to approximately 2 miles or fewer of new electric or gas line extensions from an existing line, a total of 1 acre or less of new gas pressure limiting stations within the study area, and 0.5 acre or less for each electric substation expansion. End-to-end extensions exceeding approximately 2 miles would not be covered under the Draft Plan. Multiple 2-mile extensions in different areas would be covered, but each would be treated as a

separate activity. The size of a minor new construction project would be estimated as the total footprint, expressed in acres. Additionally, PG&E's community pipeline safety initiative involves upgrading key existing gas transmission pipelines located in heavily populated and other critical areas. Covered activities include inspection, field testing, and potentially replacing many pipeline segments to ensure reliable and safe delivery of gas to customers. Pipeline replacements are estimated to average between 4 miles and 8 miles and are primarily in urban areas, although there would also be replacement activities in areas of natural vegetation.

Covered Species

Covered species are those species addressed in the Draft HCP for which conservation actions will be implemented and for which PG&E is seeking an ITP for a period of 30 years. Proposed covered species include those listed as threatened or endangered under the Act.

The following federally listed threatened and endangered wildlife species are proposed to be covered by the Draft HCP: The endangered California freshwater shrimp (*Syncaris pacifica*), endangered conservancy fairy shrimp (*Branchinecta conservatio*), endangered longhorn fairy shrimp (*Branchinecta longiantenna*), threatened vernal pool fairy shrimp (*Branchinecta lynchi*), endangered vernal pool tadpole shrimp (*Lepidurus packardii*), threatened delta green ground beetle (*Elaphrus viridis*), threatened Bay checkerspot butterfly (*Euphydryas editha bayensis*), endangered callippe silverspot butterfly (*Speyeria callippe callippe*), endangered Lange's metalmark butterfly (*Apodemia*

mormo langei), endangered Mission blue butterfly (*Plebejus icarioides missionensis*), endangered San Bruno elfin butterfly (*Incisalia mossii bayensis*), threatened California tiger salamander (Central Distinct Population Segment (DPS)) (*Ambystoma californiense*), endangered California tiger Salamander (Sonoma County DPS) (*Ambystoma californiense*), threatened California red-legged frog (*Rana draytonii*), threatened Alameda whipsnake (*Masticophis lateralis euryxanthus*), endangered San Francisco garter snake (*Thamnophis sirtalis tetrataenia*), endangered Ridgway's rail (*Rallus obsoletus*), endangered salt marsh harvest mouse (*Reithrodontomys raviventris*), and endangered San Joaquin kit fox (*Vulpes macrotis mutica*).

Take of federally listed plant species is not prohibited on non-Federal land under the Act, and cannot be authorized under a section 10 permit. However, PG&E proposes to include federally listed plant species in recognition of the conservation benefits provided for them under the Draft Plan. For the purposes of the Draft Plan, federally listed plant species are further included to meet regulatory obligations under section 7 of the Act. All species included on the ITP would receive assurances under Service's "No Surprises" regulations found in 50 CFR 17.22(b)(5) and 17.32(b)(5). The following federally listed plant species are included in the Draft Plan in recognition of the conservation benefits provided for them and the assurances PG&E would receive if they are included on permit: Threatened pallid manzanita (*Arctostaphylos pallida*), endangered Sonoma sunshine (*Blennosperma bakeri*), endangered coyote ceanothus (*Ceanothus ferrisiae*), endangered fountain thistle (*Cirsium fontinale fontinale*), endangered Santa Clara Valley dudleya (*Dudleya abramsii setchellii*), endangered Contra

Costa wallflower (*Erysimum capitatum angustatum*), threatened Marin dwarf flax (*Hesperolinon congestum*), endangered Burke's goldfields (*Lasthenia burkei*), endangered Contra Costa goldfields (*Lasthenia conjugens*), endangered Sebastopol meadowfoam (*Limnanthese vinculantes*), endangered Antioch Dunes evening primrose (*Oenothera deltoides howellii*), endangered white-rayed pentachaeta (*Pentachaeta bellidiflora*), and endangered Metcalf Canyon jewelflower (*Streptanthus glandulosus albidus*).

National Environmental Policy Act Compliance

The Draft EA was prepared to analyze the impacts of issuing an ITP based on the Draft Plan and to inform the public of the proposed action, alternatives, and associated impacts and disclose any irreversible commitments of resources.

The proposed permit issuance triggers the need for compliance with NEPA. The proposed action presented in the Draft EA is compared to the no-action alternative. The no-action alternative represents estimated future conditions to which the proposed action's estimated future conditions can be compared.

Based on the expected scope of the HCP in 2006, the Service published a Notice of Intent (NOI) to prepare a joint environmental impact statement/environmental impact report (EIS/EIR) in the **Federal Register** on November 7, 2006 (71 FR 65123). The NOI announced a 30-day public scoping period during which the public was invited to provide written comments and attend three public scoping meetings, which were held on January

14, 2006, in Petaluma, California, and January 15, 2006, in Santa Clara and Walnut Creek, California. However, since 2006, the overall scope of the Draft HCP has been reduced from that expected at the time the Service published the NOI. The Service did not directly receive any public comments. However, two State agencies, the California Department of Transportation and the Delta Protection Commission, indirectly submitted comment letters, one to the California Department of Fish and Wildlife and one to the State Clearinghouse. No significant issues were identified during the 30-day public scoping period. Also, upon review, it appears that there are no potential significant impacts to the human environment. As a result, the Service withdraws our intent to prepare a joint EIS/EIR and is now providing notice of the availability of a Draft EA, which evaluates the impacts of the Proposed Action described above (issuance of the permit and implementation of the Draft Plan), as well as the No-Action Alternative described below.

No-Action Alternative

Under the No-Action Alternative, the Service would not issue an ITP to PG&E, and the Draft Plan would not be implemented. Under this alternative, individual PG&E projects and activities that may adversely affect federally listed animal species would require consultation with the Service pursuant to section 7 or section 10 of the Act on a case-by-case basis. Under the No Action Alternative, there would be no comprehensive means to coordinate and standardize mitigation requirements of the Act within the Plan Area; this is anticipated to result in a more costly, less equitable, less efficient project review process that would provide fewer conservation benefits. Conservation planning

and implementation would not happen at a regional scale and would be unlikely to result in a large interconnected system of conservation lands, but would instead likely result in relatively small and isolated conservation lands spread out over the entire study area.

Public Comments

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice, the Draft EA, and Draft Plan. We particularly seek comments on the following:

1. Biological information concerning the species;
2. Relevant data concerning the species;
3. Additional information concerning the range, distribution, population size, and population trends of the species;
4. Current or planned activities in the subject area and their possible impacts on the species;
5. The presence of archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns, which are required to be considered in project planning by the National Historic Preservation Act; and
6. Identification of any other environmental issues that should be considered with regard to the proposed development and permit action.

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. Comments and materials we receive will be available for public inspection by appointment, during normal business hours (Monday through Friday, 8 a.m. to 4:30 p.m.) at the Service's Sacramento address (see **ADDRESSES**).

Public Availability of Comments

Before including your address, phone number, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—might be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Next Steps

Issuance of an incidental take permit is a Federal proposed action subject to compliance with NEPA. We will evaluate the application, associated documents, and any public comments we receive to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If we determine that those requirements are met, we will issue a permit to the applicant for the incidental take of the Covered Species. We will make our final permit decision no sooner than 30 days after the public comment period closes.

Authority

We publish this notice under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347 *et seq.*; NEPA), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1500–1508, as well as in compliance with section 10(c) of the Endangered Species Act (16 U.S.C. 1531–1544 *et seq.*; Act).

Dated: March 20, 2017.

Alexandra Pitts,
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Pacific Southwest Region,
Sacramento, California.

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